

BEFORE THE
STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
STATE OF MISSOURI

**ORDER ISSUING A PROBATED PRENEED AGENT REGISTRATION
TO TYLER MORRISON STINGLEY**

COMES NOW, the State Board of Embalmers and Funeral Directors (the “Board”) and pursuant to Section 324.038, RSMo¹, issues this order granting a **PROBATED PRENEED AGENT REGISTRATION** to Tyler Morrison Stingley (“Stingley” or “Licensee”) residing at 8121 Troup, Apt. #303, Kansas City, Kansas 66112.

As set forth in Section 324.038, RSMo, Licensee may submit a written request for hearing to the Administrative Hearing Commission seeking review of the Board’s decision set forth in this Order. Such written request must be filed with the Administrative Hearing Commission within 30 days of the date the Board mails this Order to Licensee. The written request should be addressed to the Administrative Hearing Commission, Room 640, Truman State Office Building, P.O. Box 1557, Jefferson City, Missouri 65102-1557. Any such request should set forth that the applicant is qualified for nonprobated registration pursuant to the laws and administrative regulations relating to Licensee’s profession. If such review is requested, a hearing shall be held pursuant to Chapter 621, RSMo. A Commissioner of the Administrative Hearing Commission will preside over the hearing. The hearing will be

¹ All statutory references are to the Revised Statutes of Missouri (2000), as supplemented, unless otherwise indicated.

on the record and recorded by a court reporter. At the hearing, Licensee shall have the right to present testimony, call witnesses on his behalf, introduce evidence, cross-examine any witnesses called by the Board, and object to any evidence introduced by the Board and make legal argument to the Commission. Following the hearing, the Administrative Hearing Commission will issue an order including findings of fact, conclusions of law and a decision based on the evidence admitted at the hearing. A copy of the Administrative Hearing Commission's order will be delivered to the parties. Chapter 536, RSMo, sets forth the procedures for review of the order of the Administrative Hearing Commission.

If no written request for review is filed with the Administrative Hearing Commission within the 30-day period, the right to seek review of the Board's decision shall be considered waived. Section 324.038.2, RSMo. Should Licensee make written request for review of this Order, the terms and conditions of this Order shall remain in full force and effect unless and until such time as the Administrative Hearing Commission or reviewing court orders otherwise.

Relevant Statutes

1. Section 324.038, RSMo, authorizes the Board to issue a license subject to probation in lieu of denial and states:

1. Whenever a board within or assigned to the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of a license, the board, as an alternative

to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

2. The board shall notify the applicant in writing of the terms of the probation imposed, the basis therefor, and the date such action shall become effective. The notice shall also advise the applicant of the right to a hearing before the administrative hearing commission, if the applicant files a complaint with the administrative hearing commission within thirty days of the date of delivery or mailing by certified mail of written notice of the probation. If the board issues a probated license, the applicant may file, within thirty days of the date of delivery or mailing by certified mail of written notice of the probation, a written complaint with the administrative hearing commission seeking review of the board's determination. Such complaint shall set forth that the applicant or licensee is qualified for nonprobated licensure pursuant to the laws and administrative regulations relating to his or her profession. Upon receipt of such complaint the administrative hearing commission shall cause a copy of such complaint to be served upon the board by certified mail or by delivery of such copy to the office of the board, together with a notice of the place of and the date upon which the hearing on such complaint will be held. Hearings shall be held pursuant to chapter 621. The burden shall be on the board to demonstrate the existence of the basis for imposing probation on the licensee. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered waived.

3. If the probation imposed includes restrictions or limitations on the scope of practice, the license issued shall plainly state such restriction or limitation. When such restriction or limitation is removed, a new license shall be issued.

2. Section 333.325.1, RSMo, requires a registration to engage in the practice of selling preneed contracts as a preneed agent and states:

1. No person shall sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of, a seller unless registered with the board as a preneed agent except for individuals who are licensed as funeral directors under this chapter. The board shall maintain a registry of all preneed agents registered with the board. The registry shall be deemed an open record and made available on the board's web site.

3. Section 333.325.4, RSMo, requires that funeral director preneed agents be included on the Board's registry and states:

Any funeral director acting as a preneed agent shall be required to report the name and address of each preneed seller for whom the funeral director is authorized to sell, negotiate, or solicit the sale of preneed contracts as part of their biennial renewal form. Each funeral director preneed agent shall be included on the board's registry.

4. Section 333.330, RSMo, authorizes the Board to deny an application for a preneed agent registration and states, in relevant portion:

1. The board may refuse to issue any certificate of registration or authority, permit, or license required under this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit, or license required by this chapter, or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated under this chapter, for any offense involving a controlled substance, or for any offense an

essential element of which is fraud, dishonesty, or an act of violence;

5. When Stingley was adjudged guilty of driving under the influence in Nebraska in January, 2005, Section 60-6,196 of the Nebraska Revised Statutes stated:

60-6,196 Driving under influence of alcoholic liquor or drug; penalties.

(1) It shall be unlawful for any person to operate or be in the actual physical control of any motor vehicle:

(a) While under the influence of alcoholic liquor or of any drug;

(b) When such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood; or

(c) When such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath.

(2) Any person who operates or is in the actual physical control of any motor vehicle while in a condition described in subsection (1) of this section shall be guilty of a crime and upon conviction punished as provided in sections 60-6,197.02 to 60-6,197.08.

6. When Stingley was charged with driving under the influence in South Dakota in 2007, SDCL Section 32-23-1(1), stated:

32-23-1. Driving or control of vehicle prohibited with alcohol in blood or while under influence of alcohol or drug

No person may drive or be in actual physical control of any vehicle while:

(1) There is 0.08 percent or more by weight of alcohol in that person's blood as shown by chemical analysis of that person's breath, blood, or other bodily substance;

(2) Under the influence of an alcoholic beverage, marijuana, or any controlled drug or substance not obtained pursuant to a valid prescription, or any combination of an alcoholic beverage, marijuana, or such controlled drug or substance;

(3) Under the influence of any controlled drug or substance obtained pursuant to a valid prescription, or any other substance, to a degree which renders the person incapable of safely driving;

(4) Under the combined influence of an alcoholic beverage and or any controlled drug or substance obtained pursuant to a valid prescription, or any other substance, to a degree which renders the person incapable of safely driving; or

(5) Under the influence of any substance ingested, inhaled, or otherwise taken into the body as prohibited by [§ 22-42-15](#).

Parties and Background

7. The Board is an agency of the State of Missouri created and established pursuant to Section 333.151, RSMo, and vested with the authority to execute and enforcing the provisions of Chapter 333 and portions of Chapter 436, RSMo.

8. Tyler Morrison Stingley is an individual residing at 8121 Troup, Apt. #303, Kansas City, Kansas 66112.

9. Stingley submitted his “Application for Preneed Agent/Funeral Director” to the Board that he signed before a notary public on November 14, 2011 (the “Application”).

10. Stingley is over the age of 18 years.

11. Stingley has met the statutory requirements for licensure.

Basis for Probation

12. On his Application, Stingley answered "yes" to the following questions number 3,4, 6, and 7 that state:

3. Have you ever had any professional license, certification, registration or permit revoked, suspended, placed on probation, censured, reprimanded, fined or otherwise subjected to any type of disciplinary action? If yes, attach a full explanation.

4. Are you presently being investigated or is any disciplinary action pending against any professional license, certification, registration or permit you hold or have applied for? If yes, attach a full explanation.

6. Have you ever been convicted, adjudged guilty by a court, pled guilty or pled nolo contendere to any crime whether or not sentence was imposed (include SIS), or are such actions currently pending (excluding traffic violations)? If yes, attach a full explanation and provide certified court documents (i.e. Docket Sheet, Information or Indictment, and Final Disposition).

7. Have you ever been convicted, adjudged guilty by a court, pled guilty or nolo contendere to any traffic offense resulting from or related to the use of drugs, alcohol, whether or not sentence was imposed (includes SIS), or are such actions currently pending? If yes, attach a full explanation and provide certified court documents i.e. Docket Sheet, Information or Indictment, and Final Disposition).

13. Stingley provided the Board with a written explanation of the charges filed against him and his subsequent conduct and of the disciplinary actions imposed on his other professional licenses.

14. By Order of Probation entered on January 11, 2005, the Court adjudged Stingley guilty of the 1st offense of driving under the influence and sentenced Stingley to 6 months supervised probation subject to certain terms and conditions including that Stingley attend 10 AA meetings within 90 days of the Court's Order. *State of Nebraska v. Stingley*, Dixon County, Case number CR04-302.

15. On December 22, 2007, a criminal complaint was filed against Stingley charging him with 1 count of driving under the influence in violation of SDCL Section 32-23-1(1), 2nd offense. *State of South Dakota v. Stingley*, Clay County.

16. On July 15, 2011, the Board issued Stingley a probated Embalmer Apprentice Registration License by "Order Issuing a Probated Embalmer Apprentice Registration License."

17. On November 7, 2011, the Board issued Stingley a probated Funeral Director License by "Order Issuing a Probated Funeral Director License."

18. The Board has cause to deny Stingley's application for a preneed agent registration pursuant to Section 333.330.2 (1) and (2), RSMo.

19. The Board finds that issuance of a probated preneed agent registration, subject to certain terms and conditions, in lieu of denial, will ensure protection of the public.

Issuance of Probated License Subject to Terms and Conditions

The Board, in lieu of denial, hereby issues a preneed agent registration to Tyler Morrison Stingley, on **PROBATION** for a period from the effective date of this Order until **November 6, 2012** and concurrent with the probation imposed on Stingley's funeral director license (the "Disciplinary Period") subject to the terms and conditions contained in this Order and set forth below.

Terms and Conditions of Probation

20. Licensee shall comply with the following terms and conditions of probation during the Disciplinary Period:

- a. Licensee shall keep the Board informed of Licensee's current work and home telephone numbers and addresses. Licensee shall notify the Board in writing within ten (10) business days of any change in this information. If Licensee utilizes e-mail, Licensee shall provide the Board with his current and active e-mail address;
- b. Licensee shall comply with all applicable provisions of Chapters 194, 333 and 436, RSMo, all Board regulations and all federal, state and local laws and regulations related to business operations in the funeral and death care industry;
- c. Licensee shall engage in no conduct that would give the Board cause to seek authority to discipline from the Administrative Hearing Commission as set forth in Section 333.330, RSMo;
- d. Licensee shall meet in person with the Board or any Board representative at any such time and place as required by the Board or its representative upon reasonable notice. Any such meetings shall be at the Board's discretion;
- e. Licensee shall submit written compliance reports to the Board no later than January 1 and July 1 of each year, but no compliance report shall be filed more than 14 days before it is due. Each of these compliance reports shall state truthfully whether there has been full compliance with the terms and conditions of this Order for the previous six month period and shall fully explain any non-compliance. These compliance reports shall contain all

other information required by this Order. Compliance reports may be submitted on a form provided by the Board, but failure to receive such a form from the Board shall not excuse the timely filing of any compliance report;

- f. Upon the request by the Board or its representative, Licensee shall immediately submit any and all records requested to show compliance with these terms and conditions;
- g. Licensee shall renew timely all licenses and/or registrations, shall pay timely all fees required for licensure/registration and shall meet all other requirements necessary to maintain all licenses and registrations issued by the Board current and active;
- h. Licensee shall accept and cooperate with unannounced visits from the Board, or its representatives, to monitor compliance with the terms and conditions of probation;
- i. Licensee shall not serve as the supervisor of any funeral director apprentice or embalmer practicum student or embalmer apprentice without the express written consent of the Board. If Licensee seeks to supervise an apprentice, Licensee shall submit a written request to the Board that includes the name and address of the potential apprentice and a description of Licensee's ability to properly supervise an apprentice. No such apprenticeship shall commence until the Board has given its consent for Licensee to supervise the apprentice; and

- j. Licensee shall comply with all terms and conditions of probation contained in any other Order issued by the Board. A finding a violation of probation on any other professional license held by Stingley shall be deemed a violation of the terms and conditions of this probation.

21. Upon the expiration of the Disciplinary Period and successful completion of the probation, Licensee's registration shall be fully restored if all other requirements of the law have been satisfied; provided however, that in the event the Board determines that Licensee has violated any term or condition of this Order, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Licensee's registration.

22. The Board shall enter no order imposing further discipline on Licensee's registration without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.

23. If the Board determines that Licensee has violated a term or condition of this Order, and that violation would also be actionable in a proceeding before the Administrative Hearing Commission or in a circuit court, the Board may elect to pursue any lawful remedies or procedures afforded to it and is not bound by this Order in its determination of appropriate legal actions concerning such violation(s).

24. If any alleged violation of this Order occurs during the Disciplinary Period, the Board may choose to conduct a hearing on the alleged violation either during the Disciplinary Period, or as soon thereafter as a hearing can be held, to determine whether a violation of the terms and conditions of probation occurred and, if so, may

impose further discipline on Licensee's registration. The Board has continuing jurisdiction to hold a hearing determine if a violation of the terms and conditions of probation occurred.

25. This Order of the Board shall be maintained as an open and public record of the Board as provided in Chapters 333, 610 and 324, RSMo.

IT IS SO ORDERED.

Dated: 2.9.12

Sandy Sebastian
Sandy Sebastian
Executive Director
State Board of Embalmers and Funeral Directors